

APPENDIX C

YOUR RIGHT TO MAKE DECISIONS ABOUT YOUR HEALTH CARE

YOU HAVE THE RIGHT TO MAKE HEALTH CARE DECISIONS THAT AFFECT YOU.

You have the right to make all decisions about the health care you receive. If you do not want certain treatments, you can tell your doctor, either in person or in writing, that you do not want them. If you want to refuse treatment but you do not have someone to name as your agent, you can sign a Living Will.

Most patients can express their wishes to their doctor, but some who are badly injured, unconscious, or very ill cannot. People need to know your wishes about health care in case you become unable to speak effectively for yourself. You can express your wishes in a Health Care Power of Attorney or a Living Will.

In a Living Will you tell your doctor that you do not want to receive certain treatment. In a Health Care Power of Attorney you name an agent who will tell the doctor what treatment should or should not be provided.

The decision to sign a Health Care Power of Attorney or Living Will is very personal and very important. This pamphlet answers some frequently asked questions about Health Care Power of Attorneys and Living Wills.

These documents will be followed only if you are unable, due to illness or injury, to make decisions for yourself. While you are pregnant, however, these documents will not cause life support to be withheld.

If you do not have a Living Will or Health Care Power of Attorney that tells what you want done, you do not know what decisions will be made or who will make them. Decisions may be made by certain relatives designated by South Carolina law, by a person appointed by the court, or by the court itself. The best way to make sure your wishes are followed is to state your wishes in a Health Care Power of Attorney, or sometimes, a Living Will. If you want to refuse treatment but you do not have someone to name as your agent, you can sign a Living Will.

If you have questions about signing a Health Care Power of Attorney or Living Will, you should talk to your doctor, your minister, priest, rabbi, or other religious counselor or your attorney. Finally, it is very important that you discuss your feelings about life support with your family. A Health Care Power of Attorney also should be discussed with the people you intend to name as

your agent and alternate agents to make sure that they are willing to serve. It is also important to make sure that your agents know your wishes.

Are there forms for Living Wills and Health Care Power of Attorneys in South Carolina?

Yes. The South Carolina legislature has approved forms for both a Living Will and a Health Care Power of Attorney. The Living Will form that the legislature approved is called a "Declaration of a Desire for Natural Death." You may be able to get these forms from the person who gave you this brochure. If not, you may call:

Your local Council on Aging South Carolina Commission on Aging 1 (800) 868-9095

Joint legislative Committee on Aging (803) 734-2995

Governor's Office, Ombudsman Division (803) 734-0457

How are a Health Care Power of Attorney and a Living Will different?

* The agent named in a Health Care Power of Attorney can make all of the decisions about your health care that need to be made. A Living Will affects only life support.

* A Living Will affects life support only in certain circumstances. A Living Will only tells the doctor what to do if you are permanently unconscious or if you are terminally ill and close to death. A Health Care Power of Attorney is not limited to these situations.

"Permanently unconscious" means that you are in a persistent vegetative state in which your body functions but your mind does not. This is different from a coma, because a person in a coma usually wakes up, but a permanently unconscious person does not.

* A Living Will can only say what treatment you don't want. In a Health Care Power of Attorney you can say what treatment you do want as well as what you do not want.

* With a Living Will, you must decide what should be done in the future, without knowing exactly what the circumstances will be when the decision is put into effect. With a Health Care Power of Attorney, the agent can make decisions when the need arises, and will know what the circumstances are.

* An Ombudsman from the Governor's Office must be a witness if you sign a Living Will when you are in a hospital or nursing home. An Ombudsman does not have to be a witness if you sign a Health Care Power of Attorney in a hospital or nursing home.

I want to be allowed to die a natural death and not be kept alive by medical treatment, heroic measures, or artificial means. How can I make sure this happens?

The best way to be sure you are allowed to die a natural death is to sign a Health Care Power of Attorney that states the circumstances in which you would not want treatment. In the South Carolina form, you should specify your wishes in Items 6 and 7.

You may not have a person that you can trust to carry out your desire for a natural death. If not, a Living Will can ensure that you are allowed to die a natural death. However, it will only do so if you are permanently unconscious or terminally ill and close to death.

Which document should I sign if I want to be treated with all available life-sustaining procedures?

You should sign a Health Care Power of Attorney, and not a Living Will. The South Carolina Health Care Power of Attorney form allows you to say either that you go or that you do not want life-sustaining treatment. A Living Will only allows you to say that you do not want life-sustaining procedures.

What if I have an old Health Care Power of Attorney or Living Will, or signed one in another state?

If you previously signed a Living Will or Health Care Power of Attorney, even in another state, it is probably valid. However, it may be a good idea to sign the most current forms. For example, the current South Carolina Living Will form covers artificial nutrition and hydration whereas older forms did not.

How is a Health Care Power of Attorney different from a Durable Power of Attorney?

A Health Care Power of Attorney is a specific type of Durable Power of Attorney that names an agent only to make health care decisions. A Durable Power of Attorney may or may not allow the agent to make health care decisions. It depends on what the document says. The agent may only be able to make decisions about property and financial matters.

What are the requirements for signing a Living Will?

You must be eighteen years old to sign a Living Will. Two persons must witness your signing the Living Will form. A notary public must also sign the Living Will. If you sign a Living Will while you are a patient in a hospital or a resident in a nursing home, a representative from the Governor's Office (the Ombudsman) must witness your signing.

There are certain people who cannot witness your Living Will. The Living Will form says who cannot be a witness. You should read the Living Will form carefully to be sure your witnesses are qualified.

What are the requirements for signing a Health Care Power of Attorney?

You must have two witnesses sign "the document". The form tells you who cannot be witnesses. (These are the same people who cannot witness a Living Will.) Unlike a Living Will, the Health

Care Power of Attorney may be signed in a hospital or in a nursing home without having someone from the Ombudsman's office present. It is not necessary to have a Notary sign your Health Care Power of Attorney.

Whom should I appoint as my agent? What if my agent cannot serve?

You should appoint a person you trust and who knows how you feel about health care. You also should name at least one alternate, who will make decisions if your agent is unable or unwilling to make these decisions. You should talk to the people you choose as your agent and alternate agents to be sure they are willing to serve. Also, they should know how you feel about health care.

Is there anything I need to know about completing the Living Will or Health Care Power of Attorney form?

Each form contains spaces for you to state your wishes about things like whether you want life support and tube feeding. If you do not put your initials in either blank, tube feeding may be provided, depending upon your condition. Be sure to read the forms carefully and follow the instructions.

Where should I keep my Health Care Power of Attorney or Living Will?

Keep the original in a safe place where your family members can get it. You also should give a copy to as many of the following people as you are comfortable with: your family members, your doctor, your lawyer, your minister or priest, or your agent. Do not put your only copy of these documents in your safe deposit box.

What if I change my mind after I have signed a Living Will or Health Care Power of Attorney?

You may revoke (cancel) your Living Will or Health Care Power of Attorney any time. The forms contain instructions for doing so. You must tell your doctor and anyone else who has a copy that you have changed your mind and you want to revoke your Living Will or Health Care Power of Attorney.